S.B.Cr. Misc. Petition No. 394/2005
(Sunil Bhandari Vs. State of Rajasthan)

Date of order : 04/07/2006

HON'BLE MR.H.R.PANWAR, J.

Mr. S. Saruparia for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.

By the instant criminal misc. petition, the petitioner seeks quashing of criminal proceeding in Criminal Case No. 83/2001.

Heard learned counsel for the petitioner and public prosecutor for the State. Perused the material available on record.

It is contended by learned counsel for the petitioner that the trial is pending since the year 2001 which has not been concluded and prosecution witnesses are not turning up and therefore, proceedings may be quashed.

A seven Judge Bench of Hon'ble Supreme Court in P. Ramachandra Rao Vs. State of Karnataka (2002) 4 SCC 578, held that it is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. Relying on a Constitutional Bench decision of Hon'ble Supreme Court in Abdul Rehman Antulay Vs. R.S.Nayak (1992) 1 SCC 225 it was further held that it must be left to the judicious discretion of the court seized of an individual case to find out from the totality of circumstances of a given case if the quantum of time consumed up to a given point of time amounted to violation of Article 21, and if so, then to terminate the particular proceedings, and if not, then to proceed

ahead. The test is whether the proceedings or trial has remained pending for such a length of time that the inordinate delay can legitimately be called oppressive and unwarranted. It was further held by their Lordships that the constitutional philosophy propounded as right to speedy trial has though grown in age by almost two and a half decades, the goal sought to be achieved is yet a far-off peak. Myriad fat situations bearing testimony to denial of such fundamental right to the accused persons, on account of failure on the part of prosecuting agencies and the executive to act, and their turning an almost blind eye at securing expeditious and speedy trial so as to satisfy the mandate of Article 21 of the Constitution have persuaded the Supreme Court in devising solution by engrafting a bar of limitation beyond which the criminal proceedings or trial shall not proceed. Though the bar of limitation, judicially engrafted, is meant to provide solution, but a solution of this nature gives rise to greater problems like scuttling a trial without adjudication, stultifying access to justice and giving easy exit from the portals of justice. Such general remedial measures cannot be said to be apt solutions.

In the facts and circumstances of the present case, it cannot be said that there is an inordinate delay in the trial. Even otherwise, in view of the Seven Judge Bench decision of Hon'ble Supreme Court in P. Ramachandra Rao Vs. State of Karnataka (supra), no limit for completing the trial can be fixed. In the circumstances, therefore, no ground for interference is made out.

The misc. petition lacks merit and is accordingly dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

rp